

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

KATHY J. KAMMERER

Plaintiff,

and

UNITED HEALTHCARE SERVICES, INC., Case No. 22-cv-1101

Involuntary Plaintiff,

v.

WALMART, INC.

Defendant.

COMPLAINT WITH JURY DEMAND

NOW COMES Plaintiff Kathy J. Kammerer, by her attorney, Blane Osman of Ronald E. Osman & Associates, Ltd., and complains against Defendant Walmart, Inc. as follows:

1) Plaintiff is, and at all times relevant to this action was, an adult citizen and resident of the State of Wisconsin, with her place of residence being on Valerie Drive, Muskego, Waukesha County, Wisconsin.

2) The Involuntary Plaintiff, United Healthcare Services, Inc. (hereafter “United Healthcare”), is an Employee Benefit Plan Administrator with its principal place of business located at 4316 Rice Lake Road, Duluth, MN 55811, and is licensed as an Employee Benefit Plan Administrator in the State of Wisconsin. Its agent for service of process is CT Corporation System, 301 S. Bedford St., Suite 1, Madison, WI 53703.

3) United Healthcare is joined as an Involuntary Plaintiff in accordance with Wis. Stats. §803.03(2) as it had in place at the time of the incident hereafter complained of a policy of health insurance covering Plaintiff and paid medical expenses of behalf of Plaintiff, and thus has a subrogation interest in Plaintiff's claim.

4) Defendant Walmart, Inc. (hereafter "Walmart") is a Delaware Corporation with its principal place of business located at 702 SW 8th Street, Bentonville, AR 72716. Walmart is registered to do business in the State of Wisconsin. Walmart's registered agent for service of process in Wisconsin is CT Corporation System, 301 S. Bedford St., Suite 1, Madison, WI 53703.

5) Complete diversity of citizenship exists in the matter within the purview of 28 U.S.C. §1332, and the matter in controversy exceeds Seventy Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

6) Venue is proper in the Eastern District of Wisconsin as Defendant can be found in and transacts business in the Eastern District of Wisconsin, and because acts alleged herein occurred in the Eastern District of Wisconsin.

7) Walmart operates Walmart Supercenter #4677 at W159s6530 Mooreland Road, Muskego, Wisconsin (hereafter "Walmart #4677"). At all times relevant herein, Walmart had control over Walmart #4677 and held a duty to maintain Walmart #4677 in a condition that was reasonably safe for patrons and devoid of hazards.

8) On September 28, 2019, Plaintiff and her husband were shopping in Walmart #4677 on Aisle N24 in its Fabrics and Crafts Section.

9) Plaintiff selected a sewing machine from a lower shelf, and her husband removed the boxed sewing machine from the lower shelf and placed it in their shopping cart for purchase.

10) While her husband was placing the boxed sewing machine in their shopping cart, another boxed sewing machine, specifically a Brother SE625 Sewing and Embroidery Machine weighing approximately 26 pounds, fell from the top shelf and struck Plaintiff on the head, causing her to collapse to the ground.

11) After Plaintiff was able to rise from the ground, she, her husband, and numerous employees of Walmart #4677 observed that the boxed Brother SE625 Sewing and Embroidery Machine had fallen from the top shelf because that top shelf was broken.

12) As a result of the being struck on the head by the falling sewing machine, Plaintiff sustained serious injury.

13) Walmart was negligent in failing to provide and maintain premises that were safe and proper for invitees using said premises, as required by the provisions of Wis. Stats. §101, as applicable thereto.

14) Walmart's negligent failure to maintain its premises in a safe and proper condition was the direct and proximate cause of significant injury to Plaintiff.

15) As a result of Plaintiff's injuries, she has suffered or incurred in the past and will continue in the future to suffer pain, disability, emotional distress, anxiety, embarrassment, loss of enjoyment of life, expense of medical care and treatment, loss of earning, and loss of future earning capacity.

16) Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff Kathy Kammerer demands judgment against Defendant Walmart, Inc. in amount in excess of \$75,000.00 for her damages, together with statutory costs and such further relief as may be appropriate.

RONALD E. OSMAN & ASSOCIATES, LTD.
Attorneys for Plaintiff

Date: September 21, 2022

By: /s/ Blane Osman

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